

received, concerning the handling, condition, quality, quantity, sale, or disposition thereof, or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 and not more than \$3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court.

(Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355.)

Editorial Notes

CODIFICATION

Section constitutes part of section 1 of act Mar. 3, 1927. Remainder of section 1 was classified to section 492 of this title.

§ 492. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355, related to investigation of quality and condition of produce received in interstate commerce. See section 1622(h) of this title.

§ 493. Enforcement of provisions; prosecution of cases

The Secretary of Agriculture is authorized and directed to enforce this chapter. It is made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice.

(Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

Editorial Notes

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 495 and 496 of this title.

§ 495. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise ap-

propriated, such sums as may be necessary after the fiscal year beginning July 1, 1927 to carry out the purposes of this chapter.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

Editorial Notes

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 496 of this title.

§ 496. Validity of other statutes dealing with same subject

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

Editorial Notes

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 495 of this title.

§ 497. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

Sec.	
499a.	Short title and definitions.
499b.	Unfair conduct.
499b-1.	Products produced in distinct geographic areas.
499c.	Licenses.
499d.	Issuance of license.
499e.	Liability to persons injured.
499f.	Complaints, written notifications, and investigations.
499g.	Reparation order.
499h.	Grounds for suspension or revocation of license.
499i.	Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty.
499j.	Orders; effective date; continuance in force; suspension, modification and setting aside; penalty.
499k.	Injunctions; application of injunction laws governing orders of Interstate Commerce Commission.
499l.	Violations; report to Attorney General; proceedings; costs.
499m.	Complaints; procedure, penalties, etc.
499n.	Inspection of perishable agricultural commodities.
499o.	Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes.

Sec.	
499p.	Liability of licensees for acts and omissions of agents.
499q.	Separability.
499r.	Repealed.
499s.	Depositing appropriations in fund.
499t.	Omitted.

§ 499a. Short title and definitions

(a) Short title

This chapter may be cited as the "Perishable Agricultural Commodities Act, 1930".

(b) Definitions

For purposes of this chapter:

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "interstate or foreign commerce" means commerce between any State or Territory, or the District of Columbia and any place outside thereof; or between points within the same State or Territory, or the District of Columbia but through any place outside thereof; or within the District of Columbia.

(4) The term "perishable agricultural commodity"—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages.

(5) The term "commission merchant" means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another.

(6) The term "dealer" means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a "dealer" in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a "dealer" until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of \$230,000; and (C) no person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a "dealer" whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a "dealer" under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a "dealer".

(7) The term "broker" means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for

or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of \$230,000 in any calendar year.

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(9) The term "responsibly connected" means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association. A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this chapter and that the person either was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.

(10) The terms "employ" and "employment" mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(11) The term "retailer" means a person that is a dealer engaged in the business of selling any perishable agricultural commodity at retail.

(12) The term "grocery wholesaler" means a person that is a dealer primarily engaged in the full-line wholesale distribution and resale of grocery and related nonfood items (such as perishable agricultural commodities, dry groceries, general merchandise, meat, poultry, and seafood, and health and beauty care items) to retailers. However, such term does not include a person described in the preceding sentence if the person is primarily engaged in the wholesale distribution and resale of perishable agricultural commodities rather than other grocery and related nonfood items.

(13) The term "collateral fees and expenses" means any promotional allowances, rebates, service or materials fees paid or provided, di-